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COMMITTEE ON NEBRASKA RETIREMENT SYSTEMS
January 24, 2006
LB 1020, 1021

The Committee on Nebraska Retirement Systems met at 12:15 p.m. on Tuesday, January 24, 2006, in Room 1525 of the State Capitol, Lincoln, Nebraska, for the purpose of conducting a public hearing on LB 1020 and LB 1021. Senators present: Elaine Stuhr, Chairperson; John Synowiecki, Vice Chairperson; Patrick Bourne; Philip Erdman; and Don Pederson. Senators absent: Marian Price.

SENATOR STUHR: Good afternoon, ladies and gentlemen. We are ready to begin our hearing this afternoon for the Retirement Committee, and I'm Elaine Stuhr. I serve as Chair and I'd like to make some introductions. To my far right is Mr. Donn Jones who serves as our committee actuary. Senator Price from Lincoln is not with us us; hopefully she will be here shortly. Senator Phil Erdman from Bayard, Nebraska; our legal counsel, Jason Hayes; and to my left, Senator John Synowiecki from Omaha, and he serves as Vice Chair of the committee; Senator Patrick Bourne, also from Omaha; Senator Don Pederson from North Platte who also serves as Chair of the Appropriations Committee; and our committee clerk, Kathy Baugh. Also as our page today is Jake Wawrzynkiewicz--you'll have to help me again.

JACK WAWRZYNKIEWICZ: Wawrzynkiewicz.

SENATOR STUHR: Wawrzynkiewicz. And Jack is from Papillion.

SENATOR D. PEDERSON: Senator Stuhr?

SENATOR STUHR: Yes.

SENATOR D. PEDERSON: Senator Bourne is Chairman of the Judiciary Committee too.

SENATOR STUHR: Yes. I'm sorry I did not...

SENATOR ERDMAN: Congratulations, Senator Bourne.

SENATOR D. PEDERSON: I don't want to short-change him.

SENATOR BOURNE: That's right. I appreciate you looking out for me, Don.

SENATOR STUHR: All right. A few rules that we might go over: Please turn off your cell phones and pagers that you might have. Those wishing to testify should sit up towards the front of the room. Make sure that you print your name on the form, and I guess there are some forms on the table; they're not in a box but they are there. And as you begin your testimony, state your name and spell your first and your last name, and that certainly does help those that need to put the comments in writing for us. If you have handouts, please give those to the page. And I believe that's it. And today's bills are LB 1020, and Jason Hayes will, as the committee counsel, will open on the first bill, LB 1020.

LB 1020

JASON HAYES: (Exhibit 1) Good afternoon, Senator Stuhr and members of the Nebraska Retirement Systems Committee. My name is Jason Hayes spelled J-a-s-o-n H-a-y-e-s, counsel for the committee, and I'm here to introduce LB 1020 on behalf of the committee. This legislation would change the amortization period for funding the unfunded actuarial accrued liabilities in the School Employees, the State Patrol, and the Judges Retirement Plans. The amortization period would change from a 25-year to a 30-year period. This proposal would extend the time period over which liabilities of the plans are to be paid thereby reducing the amount of liability due each year. By reducing the liability due, this change would reduce the additional contribution amount required, if any, to be paid by the state when the required contribution rate exceeds the actual rate of all contributions paid into a plan. This proposal was first studied as a result of LR 176 during the previous 2005 interim session. Currently, the unfunded liability from the previous year in each defined benefit plan is amortized over a 25-year period. Any additional changes that have occurred in the present year due to actuarial gains and losses or any other changes in planned benefits or assumptions are also amortized over a 25-year period. If this legislation is adopted, then the amount required to pay this unfunded liability would be reduced each year. As an example, if the 30-year period was implemented for this current year the required additional contribution for the

School Employees Plan would be reduced from $12.848 million to $6.615 million; the State Patrol Plan contribution would be reduced from $1.08 million to $998,000; and because there is no contribution currently required for the Judges Plan, there would be no adjustment for this year. However, the reduced contribution amounts to the Judges Plan would show up in future years if the projected increases in required contributions occur. Finally, Dave Slishinsky, the actuary for NPERS has recommended additional language be placed into the bill to ensure that the existing amount of unfunded liabilities on July 1, 2006, will be reinitialized and then amortized over a 30-year period. Thereafter, all subsequent unfunded liabilities occurring will also be paid under a separate 30-year amortization schedule. You should have AM 1975 in front of you that contains this language. (Exhibit 2) Are there any questions?

SENATOR STUHR: Are there any questions for Jason in regards to the 30-year? If not, thank you very much. Those wishing to testify as proponents, please come forward. First testifier, welcome.

HERB SCHIMEK: Welcome, Madam Chair. My name is Herb Schimek, H-e-r-b S-c-h-i-m-e-k, speaking today on behalf of the Nebraska Education Association, Nebraska School Boards Association, and the Nebraska Council of School Administrators. And being sorely tempted to make all kinds of outrageous statements, but we'll not do that today. We are very much in favor of this bill and would like to give our full support.

SENATOR STUHR: Okay, thank you. You're wearing lots of hats today.

HERB SCHIMEK: Yes.

SENATOR STUHR: Okay. Are there questions by the committee? Okay, thank you.

HERB SCHIMEK: Thank you.

SENATOR STUHR: Are there others wishing to testify as a proponent of this legislation? Are there those wishing to testify in opposition? Those wishing to testify in a neutral capacity? Welcome, Anna.

ANNA SULLIVAN: Senator Stuhr, members of the Retirement Committee, my name is Anna Sullivan, that's S-u-l-l-i-v-a-n. I'm representing the Nebraska Public Employees Retirement Systems. We have just a few comments with regard...actually I think Jason has addressed the points that we needed to make in visiting with our consulting actuary and looking at the study that was conducted by him over the summer. One question that remained, the study basically took a snapshot of the current situation, using the current plan's valuation reports that were released in November. And that snapshot told us what would the impact be today. We did need to make the decision and make sure that the language was clear in statute how this then happens every year thereafter. One thing, one possible solution could have been that every year you set back a 30-year amortization, but essentially the result of that would be that you would never pay it off. The actuary questioned whether that would be a very good idea just because of that never paying it off. So he and I discussed a couple of other options, and I think the option that he favored was that if you look at your actuarial report, and I realize you probably don't have it, but I, for the Retirement Board, referred them to the school report just as an example, you'll find in the school report on page 6, (Exhibit 3) and you may just want to make a note of that for further reference, on page 6 of the school report there is a separate unfunded that began in 2002 after we had our market correction. And then each year, on the 25-year schedule, each year that unfunded for that year starts at 25 and then declines. So we have four bases: the one in 2002 where we have 22 payments remaining; the one in 2003, we have 23 payments--if you understand, it's on a declining. But each year there is a separate amortization set up for that year's unfunded. What we would suggest here and what this language does is clarify that. The first year, that schedule...I see Senator Stuhr is passing that around; that's good...that schedule would all be reset to 30 and that's the result of the study that you see on study 1 in your study. It would all be reset to 30 and then thereafter when an unfunded, if an unfunded occurs, in each preceding year it would be independently at 30 years, so you would continue with this schedule for each year rather than reinitialization the whole unfunded every year. It may sound maybe kind of technical there but the point is, is that we would set up a schedule as we have been doing. But what to do this first year and then thereafter, we just needed to take a look at it. And what Jason has proposed in an amendment would help clarify that, that it reinitializes that schedule at 30 and then thereafter using the 30-year for each year after that. So we appreciate your consideration. The board, one of the things that we talked about and the actuary made very clear, you either pay now or you pay later, and so it's just like your home mortgage. If you are a 15-year mortgage person or you are a 30-year mortgage person, you know what happens if you pay it over a longer period. But this does take some of the volatility out of the annual required payments, and so that's for the committee and the Legislature to decide, but it's certainly acceptable within the 30 years so we don't have any opposition to that. I'd be happy to try to answer any questions if you have any.

SENATOR STUHR: All right. Are there questions? Senator Bourne.

SENATOR BOURNE: Anna, the way you're advocating that, is that in the standard, the GASB standard?

ANNA SULLIVAN: Yes. This would be acceptable.

SENATOR BOURNE: That's what the standard sets out?

ANNA SULLIVAN: This would be acceptable. While the open of reinitializing the whole thing every year, setting it back to 30, the actuary said to me it would be questionable and is just less conservative, and so.

SENATOR BOURNE: So this amendment, this 1975, is the one that meets the standard set forth?

ANNA SULLIVAN: Yes.

SENATOR BOURNE: Okay.

SENATOR STUHR: Are there other questions? Anna, I thought you might just share, was there recently an IRS decision that allowed actually up to 40 years?

ANNA SULLIVAN: That's correct. At one time the amortization schedule could be as long as 40 years in a pension plan. Some years ago the Legislature here set 25 for these three defined benefit plans so we were very conservative in our 25-year. But that 40-year has now been reduced to 30 so we're within the guideline if we move from 25 to 30; we're still within the recommended guideline, so.

SENATOR STUHR: Okay. Senator Bourne.

SENATOR BOURNE: Just for clarity, so that standard is changing to 30 years effective this year, is that right?

ANNA SULLIVAN: You know, I'd have to double-check the date. I don't...

SENATOR BOURNE: Okay, but 40 is no more...that's not acceptable (inaudible), so it is 30.

ANNA SULLIVAN: That's correct.

SENATOR BOURNE: All right.

SENATOR STUHR: And do you know what other states, what their ranges are? I know different states do vary, but it seemed as if there were a number in that 30-year range.

ANNA SULLIVAN: I think that 30 is probably the majority, but I can't tell you off the top of my head. There are a lot of them that use 30.

SENATOR STUHR: In fact, I think there were even a couple that maybe had previously used the 40.

ANNA SULLIVAN: Yes, there are some that I know of that are using 40 and having to make an adjustment.

SENATOR STUHR: All right. Right, so... All right, other questions? If not, thank you very much for your testimony.

ANNA SULLIVAN: Thank you for your time.

SENATOR STUHR: Are there others wishing to testify in a neutral capacity? If not, that closes the hearing on LB 1020. We will open the hearing now on LB 1021. Okay, welcome, Jason.

LB 1021

JASON HAYES: (Exhibit 4) Again, good afternoon, Senator Stuhr and members of the Nebraska Retirement Systems Committee. My name is Jason Hayes, spelled J-a-s-o-n H-a-y-e-s, counsel for the committee, and I'm here to introduce LB 1021 on behalf of the committee. Other than some additional harmonizing language, this proposal mirrors the language found in LB 366 which was voted out of committee with an amendment last year and is currently on General File. LB 1021 was introduced again this session in order to facilitate a discussion of these issues involving the immediate plan participation by state and county employees upon hire and increasing the state employees' contribution rate to a single rate of 4.8 percent. Both of these proposal were originally submitting by the Public Employees Retirement Board to this committee. Currently, permanent full-time and part-time public employees participate in the state and the county retirement plans only after the employee has been employed for 12 months with their employer. This bill would give a state or county employee an additional year to contribute money to his or her retirement account, but would also require the state and county employers to match an additional year of contributions. According to the fiscal note, an additional $1,594,144 would be required annually from state general funds, as well as additional expenses from each county employer. Unlike the School, State Patrol, and Judges Plan members who have immediate participation, the State and the County Employee Plan members do not. Also there are some administrative and audit concerns regarding the 12-month waiting period, and the director of NPERS is here to discuss those concerns. As I mentioned earlier, LB 1021 would also increase the amount a state employee would contribute to his or her employee retirement account in an amount of 4.8 percent with regard to the employee's monthly compensation throughout the full year. Currently, a state employee is only permitted to contribute 4.33 percent of his or her monthly compensation until such time the employee has paid a total of $864 during the calendar year, which represents approximately $19,954 in annual compensation or compensation to that point. Thereafter, an employee is permitted to contribute 4.8 percent of the employee's monthly compensation into a retirement account. By raising this contribution rate, LB 1021 would also increase the total amount contributed by the state of Nebraska, because under current law the state employer matches employee contributions in an amount equal to 156 percent. By raising the employee's contribution rate, this matching retirement contribution would require an additional $1,105,881 annually from state general funds. In closing, LB 1021 is an attempt to address issues of benefit adequacy for employees within the state and the county defined contribution plans. Anna Sullivan, the director of the Nebraska Public Employees Retirement Systems, is here to address the proposals contained in LB 1021. Are there any questions?

SENATOR STUHR: Are there any questions for Jason? Senator Bourne.

SENATOR BOURNE: Just a quick one. Jason, thanks for the introduction. If this bill is similar in concept other than some technical changes to 366 that we prioritized last year as a committee, why are we introducing this again?

JASON HAYES: I guess the thought was just to have an additional hearing on it, not knowing exactly where 366 was going, and if the committee wanted to, to put it back into another bill or whatnot. So I guess the thought was just to get a discussion on it.

SENATOR STUHR: Also, Jason, had we included the early participation was...?

JASON HAYES: In terms of...? Oh, yes, because 366 was voted out of committee with the committee amendment which took out the immediate participation, LB 1021 actually contains the immediate participation in it.

SENATOR BOURNE: The one-year?

SENATOR STUHR: The one we are discussing right now.

JASON HAYES: Yeah, removing the one-year waiting period.

SENATOR STUHR: Okay. Are there any other questions? If not, those wishing to testify...yes, excuse me.

SENATOR D. PEDERSON: What is the vesting time for these funds?

JASON HAYES: The vesting time would still be three years. And so right now what happens is, an employee comes in, waits a year to actually join the plan, and then they wait another...or basically it's another two years before they vest. What this would do would just be they would basically be, upon hiring, they would be in the plan and then they would still have to wait three years to vest.

SENATOR D. PEDERSON: Okay, thank you.

SENATOR STUHR: Okay, thank you. Those wishing to testify as a proponent of the bill, please come forward. Welcome.

ROBERT CORNER: Thank you, Madam Chair, members of the Retirement Committee. My name is Robert Corner, C-o-r-n-e-r. I'm a 29-year state employee. I'm representing today NAPE-AFSCME, the Nebraska Association of Public Employees, on this bill, and I also spent ten years on the Public Employees Retirement Board representing state employees. I'm here today, first to thank you for prioritizing 366. It has a number of components of this same bill which are vitally important, I think, to state employees, so thank you for that. LB 1021 to state employees the critical part here is changing the 4.33 to 4.8. It's terrible to have to say this, but as a 29-year state employee, our retirement plan, if you look at the five plans that the state currently has, our plan is the worst as far as if you want to retire. Now as a member of the PERB board, I used to get a lot of calls from the state employees. As no longer a member of the PERB board, I still get a lot of calls from state employees. And unfortunately, a lot of them are now people who have since retired, and they are telling me they wished they never were retired. The plan was inadequate; they thought they had enough money there but they are finding when they get out, it's not. Now every benefit adequacy study ever done that's required by this committee that the state has ever done has stated, time and time again, you need to put as a minimum 12 percent with your match and the employee's match into retirement. With the 4.33, very few, if any, state employees get that. You never get to the 12 percent. So for my 29 years as a state employee...I mean, I'm glad we changed it to 4.33; it used to be 3.6...but for those 29 years, technically I've never put enough money aside each year to retire on. And I think that's what a lot of these retirees are now finding out--that's what's happening to them. So this, when you get to 4.8, at least gets you over the 12 percent threshold. The recommendation is 12 to 14; this will get you over the 12. Right now, we're a little over 11. The part about getting in the plan early, of course it would put money in the plan early, at 4.8, it would compound. It would help state employees. I'd be happy to answer any questions, but I urge you either to move this bill or 366. Unfortunately, I know, with the term limits, the number of senators will be leaving; a lot of good senators will be leaving. And as a state employee, I don't want to spend five more years trying to explain retirement to them and get this bill passed. I want it technically done this year if possible. I thank you for your time. Any questions?

SENATOR STUHR: Okay, are there any questions for Mr. Corner? I thank you for your many years of involvement in the retirement issues.

ROBERT CORNER: Thank you.

SENATOR STUHR: Are there others wishing to testify as a proponent of this bill? Those wishing to testify in opposition? Those wishing to testify in a neutral capacity? Welcome.

ANNA SULLIVAN: Senator Stuhr and members of the Retirement Committee, my name is Anna Sullivan, S-u-l-l-i-v-a-n, representing the Nebraska Public Employees Retirement Systems here in a neutral capacity, but we do have some positive comments, I guess, because of the impact this bill would have on our agency and the work that we try to do to make sure that plan members are properly enrolled. As you may or may not know, for at least the last ten years in our audit we have been...there has been fault found with us that when counties or state agencies do not properly enroll an employee after the 12-month waiting period, if they miss that, they're late, they start too early, whatever the situation may be, that shows up in our audit and has since 1995. The immediate participation would just save us enormous work, because as you can think of when you are hired with an employee, you hire an employee, you sign them up for their health insurance, they are filling out their paperwork for a variety of things. If they can sign up for retirement at the same time, then we don't have to worry about 12 months later everybody remembering, okay, Mary or Joe or Bill needs to get enrolled. And then what we find ourselves, if they are late, then there are makeup contributions. So it really has been a burden to try to make sure that everyone is properly enrolled with 91 out of the 93 counties, as well as the agencies, it's easier, because we have now one consolidated payroll system and we can monitor that. That is a real benefit to us. So I guess you could say this is a little bit of a positive/neutral here, but we do feel that our role is to be neutral because we know there will be fiscal impact to the counties and the state agencies, and that's for you to decide. You're the ones that would decide whether that's worth the expenditure. The immediate participation will require the agency to pay a year longer in matching contributions. The higher contribution rate, that also, as Mr. Corner mentioned, does address benefit adequacy concerns. We would not disagree with that. Certainly making sure that our...our interest is in our retirees, that they do retire and have something that can sustain them during their retirement years and so if this goes a little way toward supporting them in their retirement, certainly. But that's...we understand that that's for you to decide because of the fiscal impact, but I did want to mention the audit point because that...when the audit was presented to the board recently, the state and county audit...I don't know if you have a copy of that but we had, the managing auditor present it to the board in a public meeting. We asked her point-blank, if we had immediate participation did she feel like that would address their concerns, and she said, definitely yes. So we feel pretty strongly about that need to... There is a fairness issue, I think, too, if you wanted to talk about the other plans having immediate participation. And for some reason, state and county employees are denied that. That's just a development of history. I can't explain to you how that ever...why that ever happened. But I would be happy to answer any questions if you have any.

SENATOR STUHR: Okay. Are there any questions for Ms. Sullivan? I'm glad you addressed the area that...I know that since I've been involved in retirement, we've tried to make the five systems as similar as we can in a lot of areas, and the immediate participation is certainly one of those areas where, as you say, I don't know exactly why, but county and state was never included in that immediate...

ANNA SULLIVAN: I actually didn't have a chance to join until I turned age 30, so I'm going to tell you I'm over 30. I'm sure you figured that out. But I had to wait until I was 30 years old to join. At one time the rules said that. They changed it the year I turned 30.

SENATOR STUHR: Was that only for state and county or was...?

ANNA SULLIVAN: It was for state employees. I don't remember if county had the same rule, but, first...then they lowered it to 25, but, you know, don't ask me. I do not know the reason why. But it takes time sometimes to kind of resolve some of those issues so.

SENATOR STUHR: And also just changing the 4.3 to 4.8 will help in the benefit adequacy (inaudible).

ANNA SULLIVAN: It will. It also will help just with not having that step up because it's actually the lower income, lower paid person, that is hurt the most because they are less likely to get to the 4.8 contribution rate very early in the year. If you realize that the threshold is when they are paid $19,864, or whatever, some of those people may reach that in July. The higher paid person may reach the 4.8 threshold in February, you know, March, April. So that's another...that actually was linked to Social Security. That was the reason why that was in there. It had something to do with the cutoff for Social Security benefits for the higher paid person, so they were allowed a higher contribution rate. That was really the history. The rates were lower at one time. So I don't know if that's relevant at this point.

SENATOR STUHR: Okay. Any other questions? If not, thank you for your comments.

ANNA SULLIVAN: Thank you for your time.

SENATOR STUHR: Are there others wishing to testify in a neutral capacity? Welcome.

BETH BAZYN FERRELL: Thank you. Senator Stuhr, members of the committee, for the record my name is Beth Bazyn, B-a-z-y-n, Ferrell, F-e-r-r-e-l-l. I'm assistant legal counsel for the Nebraska Association of County Officials. We are appearing in a neutral capacity because we have sort of mixed emotions. Ms. Sullivan has pointed some of those out. We do have a concern about the costs that counties would incur initially for that additional year of participation by the employee. We also recognize that there is a benefit to having all the paperwork done up-front. When an employee is filling out all of their other paperwork, they could just fill out the retirement forms, as well, and be able to participate immediately. I'd be happy to try to answer any questions.

SENATOR STUHR: Are there any questions for Beth? Has this been an issue that has been discussed at your organization or...?

BETH BAZYN FERRELL: It was discussed somewhat at our meeting last Friday. We will probably also discuss it again at our meeting this Friday.

SENATOR STUHR: Okay. All right, thank you. Are there others wishing to testify in a neutral capacity? If not, that will close the hearing on LB 1021.